

Montana Access to Justice Commission *Civil Justice Improvements Act*

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CIVIL LEGAL AID ACCOUNT; INCREASING FEES FOR CERTAIN FILINGS IN DISTRICT COURT; PROVIDING A STATUTORY APPROPRIATION FOR COSTS OF PROVIDING CIVIL LEGAL AID TO PERSONS OF LIMITED MEANS; AMENDING SECTIONS 3-1-702, 3-2-714, 17-7-502, 25-1-201, 25-9-506, AND 44-7-202, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Civil legal aid account. (1) There is a civil legal aid account in the state special revenue fund. The revenue in the account must be used solely to provide legal assistance or alternative dispute resolution to persons of limited means in civil legal matters. Programs funded by the account are intended to improve court efficiency, reduce delays, and help all court users save time and money by resolving their disputes more quickly.

Explains primary purpose of the bill: funding for civil legal aid to help Montanans have a fair day in court and to improve court efficiency for everyone.

(2) The supreme court administrator shall establish procedures for the distribution and accountability of money in the account. The court administrator shall give priority to programs that serve persons with demographic barriers or in locations that lack access to legal services, including but not limited to programs in communities that serve Native American populations; programs that reach broadly across the entire state, including through technological innovations; programs that serve domestic violence survivors; programs that provide alternative dispute resolution for high-volume self-representation cases such as family law and landlord-tenant matters; programs facilitating the ability of Montanans of modest means to find attorneys they can afford; and development of forms and instructional materials explaining court processes that can be used by people representing themselves. To be eligible to receive funds from the account, a service provider must:

(a) be a tax-exempt organization and be one of the following:

(i) A 501(c)(3) non-profit organization in operation for at least one year that ordinarily renders or finances legal services to persons of limited means in civil matters or has a primary focus of coordinating volunteer or reduced-fee legal services to provide attorney representation to Montanans of limited means;

(ii) A legal aid clinic of an accredited law school operating exclusively in Montana; or

(iii) A court-connected mediation program attached to a district court or a justice court; and

(b) apply for the funds and include in the grant application a detailed plan for how the applicant will use the funds for one or more of the purposes of this section and how the applicant will collect and report data, account for the funds received, and measure progress on performance goals.

Funding recipients must be not-for-profit, with focus on helping Montanans of limited means with civil legal problems, or court-based mediation programs for civil cases.

Applicants must show detailed plan for use of funds, accountability, and performance measures.

(3) Money disbursed from the account cannot be used to bring a suit against the State of Montana or other governmental entity, unless the suit is brought to enforce an individual's right to governmental benefits provided under a statute or regulation, including but not limited to social security, medicare, medicaid, and housing benefits; acquire land or buildings; provide legal advice or representation on criminal matters; support lobbying, as defined by § 5-7-102(11), MCA; or pay attorneys employed in for-profit law firms.

Prohibits use of grant funds to sue the government, hire private lawyers, lobby, or represent criminal defendants. Exception is made when enforcing a person's legal right to recover governmental benefits.

(4) Money in this account is statutorily appropriated, as provided in 17-7-502, to the office of the court administrator for purposes provided in subsection (1).

Section 2. Section 3-1-702, MCA, is amended to read:

3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) to the extent possible, provide that current and future information technology applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in **2-17-521**;

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in **3-2-714**;

(6) administer civil legal assistance for persons of limited means, as provided in [section 1];

Supreme Court Administrator will administer the new account; Access to Justice Commission has adopted guidelines for administration of the funds.

~~(6)~~(7) administer state funding for district courts, as provided in chapter 5, part 9;

~~(7)~~(8) administer and report on the child abuse and neglect court diversion pilot project provided in **41-3-305**;

~~(8)~~(9) administer the pretrial program provided for in **3-1-708**;

~~(9)~~(10) administer the judicial branch personnel plan; and

~~(10)~~(11) perform other duties that the supreme court may assign.

Section 3. Section 17-7-502, MCA, is amended to read:

The civil legal aid account will be statutorily appropriated to the Court Administrator

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: **2-17-105**; [section 1]; **5-11-120**; **5-11-407**; **5-13-403**; **7-4-2502**; **10-1-108**; **10-1-1202**; **10-1-1303**; **10-2-603**; **10-2-807**; **10-3-203**; **10-3-310**; **10-3-312**; **10-3-314**; **10-3-1304**; **10-4-301**; [10-4-304;] **15-1-121**; **15-1-218**; **15-35-108**; **15-36-332**; **15-37-117**; **15-39-110**; **15-65-121**; **15-70-101**; **15-70-130**; **15-70-433**; **16-11-119**; **16-11-509**; **17-3-106**; **17-3-112**; **17-3-212**; **17-3-222**; **17-3-241**; **17-6-101**; **17-7-215**; **18-11-112**; **19-3-319**; **19-3-320**; **19-6-404**; **19-6-410**; **19-9-702**; **19-13-604**; **19-17-301**; **19-18-512**; **19-19-305**; **19-19-506**; **19-20-604**; **19-20-607**; **19-21-203**; **20-8-107**; **20-9-534**; **20-9-622**; **20-9-905**; **20-26-617**; **20-26-1503**; **22-1-327**; **22-3-116**; **22-3-117**; **22-3-1004**; **23-4-105**; **23-5-306**; **23-5-409**; **23-5-612**; **23-7-301**; **23-7-402**; **30-10-1004**; **37-43-204**; **37-50-209**; **37-51-501**; **37-54-113**; **39-71-503**; **41-5-2011**; **42-2-105**; **44-4-1101**; **44-12-213**; **44-13-102**; **50-1-115**; **53-1-109**; **53-6-148**; **53-6-1304**; **53-9-113**; **53-24-108**; **53-24-206**; **60-11-115**; **61-3-321**; **61-3-415**; **69-3-870**; **69-4-527**; **75-1-1101**; **75-5-1108**; **75-6-214**; **75-11-313**; **75-26-308**; **76-13-150**; **76-13-416**; **76-17-103**; **76-22-109**; **77-1-108**; **77-2-362**; **80-2-222**; **80-4-416**; **80-11-518**; **80-11-1006**; **81-1-112**; **81-1-113**; **81-7-106**; **81-10-103**; **82-11-161**; **85-20-1504**; **85-20-1505**; [85-25-102]; **87-1-603**; **90-1-115**; **90-1-205**; **90-1-504**; **90-3-1003**; **90-6-331**; and **90-9-306**.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with **17-2-101** through **17-2-107**, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. *(In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of **19-20-604** terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of **15-35-108** terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of **19-6-410** terminates contingently upon the death of the last recipient eligible under **19-6-709**(2) for the supplemental benefit provided by **19-6-709**; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of **76-13-416** terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of **17-3-112** terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of **53-9-113** terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of **50-1-115** terminates June 30, 2021;*

*pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of **53-6-1304** terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of **85-25-102** is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of **17-7-215** terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of **22-3-116** and **22-3-117** terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of **37-50-209** terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of **20-9-905** terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of **37-54-113** terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of **10-3-1304** terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of **30-10-1004** terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of **90-6-331** terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of **81-1-112**, **81-1-113**, and **81-7-106** terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of **22-1-327** terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; pursuant to sec. 31(2), Ch. 367, L. 2017, the inclusion of **10-4-301** terminates July 1, 2018, and the inclusion of **10-4-304** is effective July 1, 2018; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of **76-17-103** terminates June 30, 2027.)*

Section 4. Section 25-1-201, MCA, is amended to read:

“25-1-201. Fees of clerk of district court. (1) The clerk of district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, ~~\$90~~ \$170; for filing a complaint in intervention, from the intervenor, ~~\$80~~ \$170; for filing a petition for dissolution of marriage, \$170; for filing a petition for legal separation, \$150; and for filing a petition for a contested amendment of a final parenting plan, \$120;

(b) from each defendant or respondent, on appearance, ~~\$60~~ \$100;

(c) on the entry of judgment, from the prevailing party, \$45;

(d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's office in all criminal and civil proceedings, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;

(ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

(iii) for providing copies of papers on file in the clerk's office by facsimile, e-mail, or other electronic means in all criminal and civil

<p>Funding source: creates parity in civil filing fees by raising fees in general civil actions to match the filing fees currently paid in marriage dissolution or parenting plan cases. Also raises defendants' appearance fees. Civil filing fees have not been changed for 20 years, and a defendant's appearance fee has not been raised for 28 years.</p>

proceedings, 25 cents per page;

(e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched;

(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

(j) for transmission of records or files or transfer of a case to another court, \$5;

(k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license, \$53;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, \$53;

(p) for filing a motion for substitution of a judge, \$100;

(q) for filing a petition for adoption, \$75;

(r) for filing a pleading by facsimile or e-mail in all criminal and civil proceedings, 50 cents per page.

(2) Except as provided in subsections (3) and (5) through ~~(7)~~ 9 fees collected by the clerk of district court must be deposited in the state general fund as specified by the supreme court administrator.

(3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$19 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention

and treatment fund established in 40-15-110.

(b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under subsection (1)(a).

(5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714 and \$80 must be deposited in the state special revenue account established in [Section 1].

(6) Of the fee for filing a complaint in intervention, \$90 must be deposited in the state special revenue account established in [Section 1].

(7) Of the fee collected on appearance from each defendant or respondent, \$40 must be deposited in the state special revenue account established in [Section 1].

~~(6)~~ (8) The fees collected under subsections (1)(d), (1)(g), (1)(j), and (1)(r) must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

~~(7)~~ (9) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without solemnization, \$13 must be deposited in the domestic violence intervention account established by 44-4-310, and \$10 must be deposited in the county district court. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

~~(8)~~ (10) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not otherwise specifically allocated must be deposited in the state general fund.”

Section 6. Section 25-9-506, MCA, is amended to read:

“25-9-506. Fees. (1) Except as provided for in subsection (2), a person filing a foreign judgment shall pay to the clerk of court a

All moneys raised by this bill will be deposited in the new special revenue account.

Funding Source: Also increases fees for filing foreign judgments

fee of ~~\$60~~ 100, of which \$40 must be deposited in the state special revenue account established in [Section 1].

(those from out of state). These fees have not increased for 30 years. All new fees are deposited in the special revenue account.

(2) Fees for docketing, transcription, or other enforcement proceedings must be as provided for judgments of the district court.

(3) Fees collected by the clerk of district court not otherwise specifically allocated must be forwarded to the department of revenue for deposit in the state general fund.”

Section 7. Section 44-7-202, MCA, is amended to read:

“44-7-202. Domestic violence intervention account -- administration by board of crime control.

(1) There is a domestic violence intervention account in the state special revenue fund in the state treasury. There must be paid into this account the designated filing fees paid under **25-1-201** ~~(7)(9)~~ to the clerk of the district court. The money deposited in the account must be used for services provided under 44-7-201.

Numbering change only

(2) Funds deposited in the account may be expended by the Montana board of crime control, as provided for in **2-15-2306**, to fund services and activities under and payment of administrative costs of the domestic violence intervention program provided for in **44-7-201**.

Section 8. Reporting. The supreme court administrator shall submit a report to the Law and Justice Interim Committee on or before September 30, 2023, documenting the amount of revenue deposited in the state special revenue account established in [Section 1], the amount of funds distributed pursuant to [Section 1], and the nonprofit organizations to which funds were distributed. The report shall include a summary of the legal services provided to persons of limited means by organizations receiving funds under [Section 1], a summary of outcome measures, and information concerning the impact, if any, on court efficiencies and caseloads.

Accountability and Review:
Court Administrator must give the Law and Justice Interim Committee a status update within four years after the bill becomes law.

Section 9. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 3, chapter 2, part 7, and the provisions of Title 3, chapter 2, part 7, apply to [section 1].

Section 10. Effective date. [This act] is effective July 1, 2019.

Section 11. Termination. [This act] terminates June 30, 2025.

If not reauthorized by the Legislature, the legislation will sunset within six years, and the new fee increases will terminate.